REMARKS

I. Status of Claims

Claims 1-12 have been cancelled, and claims 13-34 have been finally rejected as being anticipated by Foresman et al., U.S. Patent 5,099,422 hereinafter "Foresman".

Claims 13, 15, 21, and 26 have been amended, and support for the amendments can be found throughout the specification. In particular, the amendments reflect a discussion between the undersigned and the Examiner regarding suggested amendments to the application.

II. The §102(b) Rejection

The Examiner has cited two portions of the Foresman reference with regard to various method steps of claim 13. Some but not all of these method steps also are found in a substantially similar form with regard to independent claims 22 and 26. The Examiner however has not cited any part of the Foresman reference with regard to any of the dependent claims. If the Examiner continues to reject the claims, in light of the remarks hereinbelow, it is respectfully requested that a new Office Action be issued, resetting the date for response, wherein the Examiner specifically points out the portion or portions of the Foresman reference which he contends anticipate each of the dependent claims in this application, and, as appropriate, he takes into account the differences in the various independent claims, and also, if appropriate wherein he takes into account the amendments to the claims which the Examiner and the undersigned had originally discussed prior to the final Office Action, and which had previously been included in this application.

The claimed invention is described in substantial detail in Section 3 of the prior Office Action response.

The Foresman reference describes a system which compiles a series of media segments to produce individually customized recording media. In the process, Foresman generally selects segments from a group of customized prerecorded information, and prerecorded segments. The segments are then laid end-to-end to form a complete media which can be sent to an individual target. While the messages are thus customized for an individual, this is not, however, the

method, means, or apparatus employed by the invention claimed herein to create its customized messages. Accordingly, therefore, as will be supported below, the Foresman reference does not anticipate the claims of the invention, and particularly claim 13, the only claim for which a detailed rejection was provided.

Referring now to the Examiner's Office Action, there is recited, for claim 13, the text from the claim filed May 21, 2008, and the section from the Foresman reference which is considered by the Examiner to disclose the recited claim text. While not all of the elements from the claim will be reviewed, those which are most clearly not disclosed in the Foresman reference will be.

With regard to clause (i), the cited material from Foresman does not describe "a sample video commercial comprising a plurality of sample video segments and a plurality of sample audio segments". The cited prior art text (Col. 7, Lines 15-28) relates to conclusions about information which should be included on the recipient's presentation tape. It is controlled by a set of decisional rules. It does not suggest that the advertiser provides a sample video commercial which has an advertising message. Thus, as best as it can be determined, Foresman's advertiser does not provide any sample video and audio segments, but only certain common material and then, in addition, selected material is generated by the system itself, but not from advertiser segments.

Clause (ii) discusses generating a commercial template having a plurality of fillable video segment slots with each fillable slot being arranged at a specific time point. Each fillable slot is arranged at a specific time point within the video commercial template. The Examiner suggests that once you have generated the sequence, you have by implication a series of time slots which are defined by the sequence. But this inverts the claimed invention. The invention requires that you first have the slots at specific time points (they need not be identical) and the method will then fill the slots in step (vi). There is no comparable step in Foresman.

Step (iv) requires "defining one or more rules for filling said plurality of fillable video segment slots with said video segments and for filling said plurality of fillable audio segment slots with said audio segments based on defined characteristics which are to be acquired regarding the target audience" (quoted as amended). While Foresman does select video

segments based on the target individual, there is no suggestion that there are, among the Foresman rules, rules for filling the video segment slots and audio segment slots. This would require some time sequencing other than that provided by the Foresman compiler which simply places one segment after another. What is required according to claim 13 is finding segments which have certain time lengths, i.e. they fit in a slot. The Foresman reference simply does not have this concept. Foresman mentions neither "time" nor "slot" in his specification.

Turning now to step (vi), as noted above, the step requires filling the video and audio segment slots. However, there is no "slot filling" mechanism described in Foresman. Foresman merely compiles the segments so that they appear in the proper order, one after the other. Slots, or given time lengths, are not applied, in any way, by Foresman.

Finally, the reference to Table B as showing step (vii) is misplaced. There is no requirement in Foresman that "at least one of a video segment and an audio segment that is different from said sample video segment and sample audio segment respectively, and wherein said customized video commercial has at least one video segment or audio segment that is the same as at least one of said sample video segment or sample audio segment" (quoted as amended). This goes back to the notion of fillable slots and the provision of a commercial from the advertiser. There being no sample advertiser, generated, commercial in Foresman, there cannot be any fulfillment of the requirement of this step. Accordingly, the Foresman reference, while it does relate to targeted advertising for individuals, does not meet the terms of claim 13 and accordingly does not anticipate claim 13. Further, since no detailed correlation between Foresman and the other claims is provided, it is respectfully requested that all the claims be passed to issue in due course.

CONCLUSION

For all the reasons noted above, it is respectfully requested that the Examiner pass this application to issue based on the reasons noted, or that a new Office Action be granted on the grounds that the Examiner has not fulfilled his obligation of accurately and completely indicating those portions of the reference which he applies to each of the dependent claims, and to the additional limitations included in, for example, independent claim 26 which still further distinguishes the claimed invention from the Foresman reference.

Applicant believes no claims fee is due with this response. However, if a fee is due, please charge our deposit account of **K&L Gates LLP, Deposit Account No. 0080570** from which the undersigned is authorized to draw.

Respectfully submitted,

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